

REMARKS

With the cancellation of claims 5 and 10, claims 1-4, 6-9, and 11-20 remain pending in the above-referenced application. Claims 6-9 and 12-19 have been withdrawn from consideration pursuant to the Response To Restriction Requirement filed previously. The Examiner has objected to the specification, apparently on the principle that a claim should not recite elements from different embodiments of the specification. Specifically, because the specification does not disclose a single embodiment that incorporates an interdigital structure with a plurality of rods, prisms, or hollow cylinders, the specification does not support claim 6. The Examiner points to no authority that expressly disapproves of intermingling elements from different embodiments in a single claim. In fact, the Board has considered this very principle guiding the Examiner's objection, and has rejected it. Applicants have attached herewith an unpublished decision by the Board of Patent Appeals, Ex parte Majumdar, 2003 WL 22282325. Specifically, the Board states the following:

Appellants further argue that multiple embodiments may be relied upon in combination to provide support for the invention as claimed with respect to written description requirement. **We agree with appellants**, but note that the reliance upon multiple embodiments may also evidence a lack of realization that portions of an invention may be combined for a new or different invention which appellants did not have in his position at the time of filing.

Id. at 3 (emphasis added).

Further in this opinion, the Board states "[t]he examiner maintains that various embodiments cannot be intermingled.... We disagree with the examiner's generalization." Id. at 4. Thus, since the Board has rejected the basis for the objection to the specification, the Examiner should withdraw it.

The Examiner has objected to Figure 3 through 7 because they do not show the thickness of the cylinders illustrated therein. Applicants submit that no drawing change is needed. The drawings are sufficient to apprehend the claimed invention, especially since the various thicknesses mentioned by the Examiner are not even recited in the claim. Accordingly, no drawing amendment is deemed necessary.

As for the objection to claim 10, given its cancellation, this objection is now moot.

Claims 1-5, 11, and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,718,819 to Schoess. Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoess in view of United States Published Patent

Application No. 2003/0062008 to Gramkow et al. ("Gramkow"). Applicants have incorporated into claim 1 now-canceled claims 5 and 10. Schoess describes a sensor, which is accommodated in an oil filter. In this context, the oil filter itself constitutes the shielding housing for the sensor element. If the sensor element (electrodes that are spaced apart) is integrated onto the inner side of the oil filter, as shown in the second exemplary embodiment, then the sensor can no longer be replaced without replacing the entire oil filter.

However, the claimed invention is directed to a separate fluid sensor in the oil pan, where the sensor element can be easily replaced without replacing additional components of the oil circuit, as well.

Contrary to the opinion of the Examiner, the cited passage in Gramkow et al. cannot be interpreted in the specified manner. Gramkow describes a camshaft, where connecting lines are provided between the interface and the functional units. These connecting lines can be produced, using MID technology [paragraph 0009]. In contrast, the claimed invention provides for the sensor element, i.e. the functional unit, to be directly deposited onto the plastic surface with the aid of MID technology (see, inter alia, page 2, lines 11 to 15, lines 22 to 23, or Claim 10). In this context, the production of a sensor element cannot be derived from Schoess or from Gramkow. In this context, it should also be considered that the production of a sensor element (in the form of an interdigital structure having a metallic coating (40) or a metallic pattern (29)) must satisfy requirements considerably more stringent than in the case of a simple connecting line. In this context, the accuracy during the manufacture of the sensor element is reflected in the quality of the measured-value acquisition.

It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,

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